

**REMARKS**

As a preliminary matter, the Examiner has rejected Claims 28-35 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Admitted Prior Art ("AAPA") in view of U.S. Patent No. 6,469,658 to Courtney et al. ("Courtney") and further in view of U.S. Patent No. 5,652,589 to Ono et al. and further in view of U.S. Patent No. 5,793,331 to Anzai et al. ("Anzai"). The Examiner has also rejected Claims 33 and 34 under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Courtney and Anzai. The Examiner has also rejected Claim 29 under 35 U.S.C. § 103(a) as being unpatentable over AAPA, Courtney, Ono, Anzai and further in view of U.S. Publication No. 2002/0197957 to Kawasaki et al. ("Kawasaki"). The Examiner has also rejected Claim 36 under 35 U.S.C. § 103(a) as being unpatentable over AAPA, Courtney, Ono, Anzai and further in view of U.S. Patent No. 6,418,377 to Conover ("Conover").

Claims 28-36 were rejected. Claims 28, 30, 31, and 33 are amended herein. No new matter is added. Claims 35 and 36 are canceled. Claims 28-34 are pending. The above amendments and the following remarks are considered by Applicant to overcome each rejection raised by the Examiner and to place the application in condition for allowance.

**I. SUMMARY OF RELEVANT LAW**

The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

**II. REJECTION OF CLAIMS 28 AND 30-36 UNDER 35 U.S.C. § 103(A) BASED ON AAPA  
IN VIEW OF COURTNEY, ONO, AND ANZAI**

On page 2 of the Office Action, the Examiner rejected Claims 28 and 30-35 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Admitted Prior Art ("AAPA") in view of U.S. Patent No. 6,469,658 to Courtney et al. ("Courtney") and further in view of U.S. Patent No. 5,652,589 to Ono et al. ("Ono") and further in view of U.S. Patent No. 5,793,331 to Anzai et al. ("Anzai"). These rejections are traversed and believed overcome in view of the following discussion.

Independent Claims 28, 30, 31, 33, each state, in part:

**"A... microphone ...for wirelessly transmitting audio signals to an external wireless receiver..."** (emphasis added)

As such, Claims 28, 30, 31, and 33 now **require** the wireless transmission of audio signals.

Courtney relates to a method for creation of planar or complex wave fronts in close proximity to a transmitter array. In particular, this document is related to a stealth bomber. Courtney is completely **silent** with respect to a **wireless transmission of audio signals** to an external wireless receiver. In contrast, the teaching of Courtney is related to a method of measuring an electronic response of an object subjected to a user defined field distribution with a pseudo-plane wave generator wherein the distance comprises a value of less than  $2 D^2/\lambda$  where in the distance and the orientation between the transmitting array and the object are determined. This has **nothing** to do with a wireless microphone system for wirelessly transmitting audio signals to an external receiver.

Ono is related to a FM-CW multi-beam radar apparatus. This document is completely **silent** with respect to a wireless microphone system for wirelessly transmitting audio signals to an external wireless receiver. Ono merely discloses that an antenna and a circulator can be arranged in a common antenna unit housing.

Anzai discloses a user replaceable flexible retractable antenna. This document is also completely **silent** with respect to a wireless microphone system for wirelessly transmitting audio

signals to an external wireless receiver. In fact, this document is related to an antenna for use with a cordless phone. Furthermore, this document only discloses the feature that an antenna unit can be screwed into a transmitter housing. Apart from that, this document has **no** connection with the subject matter of the Claims 28, 30, 31, and 33.

The Examiner appears to use a mosaic approach to attack the Claims. In other words, the Examiner is combining references relating to disparate technologies in an attempt to render the current claims obvious. The Office Action does not detail **any specific reason** why one skilled in the art would combine the disparate technologies of an apparatus for generating electromagnetic environment where the plane wave response of an object can be measured in the electromagnetic near field (i.e. the disclosure of Courtney) with the transmitter housing and antenna of a microphone of AAPA. In fact, absent any reason in the Office Action for combining the references, the Examiner's reason appears to be the Specification of the current application. Therefore, the Examiner's reason appears to be solely based on hindsight.

Applicants respectfully note that KJR cautions that such hindsight reasoning based on the Applicants' own disclosure (i.e., in the absence of facts gleaned from the prior art) distorts analysis: "[a] factfinder should be aware, of course, of the **distortion caused by hindsight bias** and must be cautious of arguments **reliant on ex post reasoning.**" Emphasis added.

Further, as MPEP §2174 "Legal Concept of Prima Facie Obviousness" states:

"[T]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made. In view of all **factual information**, the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person. **Knowledge of applicant's disclosure must be put aside in reaching this determination**, yet kept in mind in order to determine the 'differences,' conduct the search and evaluate the 'subject matter as a whole' of the invention. **The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the**

**legal conclusion must be reached on the basis of the facts  
gleaned from the prior art.” (Emphasis added)**

The Office Action cites **no facts gleaned from the prior art** to support its conclusion, relying on AAPA’s silence. In the **absence** of **any** independent basis or reason for the alleged combination, Applicants urge that the Office Action’s hindsight analysis based on AAPA’s silence fails to make a *prima facie* case of obviousness

Any person skilled in the art who is designing wireless microphone systems would have absolutely no indication whatsoever to combine the teachings of AAPA (which discloses the microphone housing and antenna) with the disparate arts of Courtney (which is related to measuring the electronic circuit response of large objects by creating an electromagnetic environment where large the distances ordinarily would not allow such measurement), Ono (which discloses a multibeam radar apparatus where a monostatic antenna is used in sensing a long-distance-away target and a bistatic antenna is used in sensing a short-distance-away target), and Anzai (which relates to a user-replaceable flexible antenna). These four references relate to completely different technical fields, and the Examiner has failed to argue how a combination of these documents could be combined and what the combination of the references would look like.

Accordingly, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of obviousness of independent Claim 28, 30, 31, and 33 and corresponding Claims 32 and 34 because Claims 32 and 34 are dependant from one of the independent Claims. Therefore, Applicant respectfully requests that Examiner withdraw the rejection of Claims 28 and 30-35 under 35 U.S.C. § 103(a) as being unpatentable over Applicant’s Admitted Prior Art in view of U.S. Patent No. 6,469,658 to Courtney et al. and further in view of U.S. Patent No. 5,652,589 to Ono et al. and further in view of U.S. Patent No. 5,793,331 to Anzai et al.

**III. REJECTION OF CLAIMS 33 AND 34 UNDER 35 U.S.C. § 103(A) BASED ON AIPA IN VIEW OF COURTNEY, AND ANZAI**

On page 5 of the Office Action, the Examiner rejected Claims 33 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Admitted Prior Art ("AAPA") in view of U.S. Patent No. 6,469,658 to Courtney et al. ("Courtney") and further in view of U.S. Patent No. 5,793,331 to Anzai et al. ("Anzai"). These rejections are traversed and believed overcome in view of the following discussion.

Independent Claim 33 states, in part:

**"A wireless microphone system... for wirelessly transmitting audio signals to an external wireless receiver..."** (emphasis added)

As such, Claim 33 now **requires** the wireless transmission of audio signals.

Courtney relates to a method for creation of planar or complex wave fronts in close proximity to a transmitter array. In particular, this document is related to a stealth bomber. Courtney is completely **silent** with respect to a **wireless transmission of audio signals** to an external wireless receiver. In contrast, the teaching of Courtney is related to a method of measuring an electronic response of an object subjected to a user defined field distribution with a pseudo-plane wave generator wherein the distance comprises a value of less than  $2 D^2/\lambda$  where in the distance and the orientation between the transmitting array and the object are determined. This has **nothing** to do with a wireless microphone system for wirelessly transmitting audio signals to an external receiver.

Anzai discloses a user replaceable flexible retractable antenna. This document is also completely **silent** with respect to a wireless microphone system for wirelessly transmitting audio signals to an external wireless receiver. In fact, this document is related to an antenna for use with a cordless phone. Furthermore, this document only discloses the feature that an antenna unit can be screwed into a transmitter housing. Apart from that, this document has no connection with the subject matter of the Claim 33.

The Examiner appears to use a mosaic approach to attack the Claims. In other words, the Examiner is combining references relating to disparate technologies in an attempt to render the current claims obvious. The Office Action does not detail **any specific reason** why one skilled in the art would combine the disparate technologies of an apparatus for generating electromagnetic environment where the plane wave response of an object can be measured in the electromagnetic near field (i.e. the disclosure of Courtney) with the transmitter housing and antenna of a microphone of AAPA. In fact, absent any reason in the Office Action for combining the references, the Examiner's reason appears to be the Specification of the current application. Therefore, the Examiner's reason appears to be solely based on hindsight.

Applicants respectfully note that KJR cautions that such hindsight reasoning based on the Applicants' own disclosure (i.e., in the absence of facts gleaned from the prior art) distorts analysis: "[a] factfinder should be aware, of course, of the **distortion caused by hindsight bias** and must be cautious of arguments reliant on ex post reasoning." Emphasis added.

Further, as MPEP §2174 "Legal Concept of Prima Facie Obviousness" states:

"[T]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made. In view of all **factual information**, the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person. **Knowledge of applicant's disclosure must be put aside in reaching this determination**, yet kept in mind in order to determine the 'differences,' conduct the search and evaluate the 'subject matter as a whole' of the invention. **The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.**" (Emphasis added)

The Office Action cites **no facts gleaned from the prior art** to support its conclusion, relying on AAPA's silence. In the **absence of any independent basis or reason for the**

alleged combination, Applicants urge that the Office Action's hindsight analysis based on AAPA's silence fails to make a *prima facie* case of obviousness

Any person skilled in the art who is designing wireless microphone systems would have absolutely no indication whatsoever to combine the teachings of AAPA (which discloses the microphone housing and antenna) with the disparate arts of Courtney (which is related to measuring the electronic circuit response of large objects by creating an electromagnetic environment where large the distances ordinarily would not allow such measurement) and Anzai (which relates to a user-replaceable flexible antenna). These three references relate to completely different technical fields, and the Examiner has failed to argue how a combination of these documents could be combined and what the combination of the references would look like.

Accordingly, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of obviousness of Claim 33 and corresponding Claim 34 because Claim 34 is dependant from one of the Independent Claims. Therefore, Applicant respectfully requests that Examiner withdraw the rejection of Claims 33 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Admitted Prior Art in view of U.S. Patent No. 6,469,658 to Courtney et al. and further in view of U.S. Patent No. 5,793,331 to Anzai et al.

**IV. COURTNEY RELATES REJECTION OF CLAIM 29 UNDER 35 U.S.C. § 103(A) BASED ON AAPA IN VIEW OF COURTNEY, ONO, ANZAI, AND KAWASAKI**

On page 6 of the Office Action, the Examiner rejected Claim 29 under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Courtney, Ono, Anzai, and Kawasaki.

Claim 29 depends from independent Claim 28. As Claim 28 is allowable, so must be Claim 29. Therefore, Applicant respectfully requests that Examiner withdraw the rejection of Claim 29 pursuant to 35 U.S.C. § 103 as being unpatentable over AAPA, Courtney, Ono, Anzai, and Kawasaki.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,

---

Eugene LeDonne – Reg. No. 35,930  
Joseph W. Treloar – Reg. No. 60,975  
Frommer Lawrence & Haug LLP  
745 Fifth Avenue  
New York, NY 10151  
Tel.: 212.521.5400

EL:RPB  
135428-2090